

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

LEON G. PHAM, P.A.

Physician Assistant
License No. PA-11963

Respondent.

Case No: 1E-2001-121054

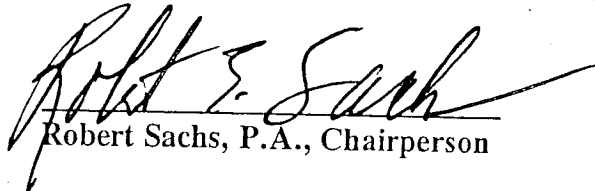
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 11, 2004

ORDERED February 10, 2004

PHYSICIAN ASSISTANT COMMITTEE


Robert Sachs, P.A., Chairperson

1 attorney Robert F. Hahn, Esq., whose address is Gould & Hahn, 5801 Christie Avenue, Suite 385,
2 Emeryville, CA 94608.

3 3. On or about March 30, 1987, the Physician Assistant Committee issued
4 Physician Assistant No. PA 11963 to Leon G. Pham (Respondent). The certificate was in full force
5 and effect at all times relevant to the charges brought in First Amended Accusation No.
6 1E-2001-121054 and will expire on December 31, 2004, unless renewed.

7 JURISDICTION

8 4. First Amended Accusation No. 1E-2001-121054 was filed before the
9 Physician Assistant Committee (Committee) for the Medical Board of California, Department of
10 Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and
11 all other statutorily required documents were properly served on Respondent on February 20, 2003.
12 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended
13 Accusation No. 1E-2001-121054 is attached as exhibit A and incorporated herein by reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, fully discussed with counsel, and understands
16 the charges and allegations in First Amended Accusation No. 1E-2001-121054. Respondent has also
17 carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement
18 and Disciplinary Order.

19 6. Respondent is fully aware of his legal rights in this matter, including the right
20 to a hearing on the charges and allegations in the First Amended Accusation; the right to be
21 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
22 against him; the right to present evidence and to testify on his own behalf; the right to the issuance
23 of subpoenas to compel the attendance of witnesses and the production of documents; the right to
24 reconsideration and court review of an adverse decision; and all other rights accorded by the
25 California Administrative Procedure Act and other applicable laws.

26 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each
27 and every right set forth above.

28 ///

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in First
3 Amended Accusation No. 1E-2001-121054, if proven at a hearing, constitute cause for imposing
4 discipline upon his Physician Assistant .

5 9. For the purpose of resolving the First Amended Accusation without the
6 expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant
7 could establish a factual basis for the charges in the First Amended Accusation, and that Respondent
8 hereby gives up his right to contest those charges.

9 10. Respondent agrees that his Physician Assistant is subject to discipline and
10 he agrees to be bound by the Committee's imposition of discipline as set forth in the Disciplinary
11 Order below.

12 CIRCUMSTANCES IN MITIGATION

13 11. Respondent Leon G. Pham has never been the subject of any disciplinary
14 action. He is admitting responsibility at an early stage in the proceedings.

15 RESERVATION

16 12. The admissions made by Respondent herein are only for the purposes of this
17 proceeding, or any other proceedings in which the Physician Assistant Committee, Medical Board
18 of California, or other professional licensing agency is involved, and shall not be admissible in any
19 other criminal or civil proceeding.

20 CONTINGENCY

21 13. This stipulation shall be subject to approval by the Physician Assistant
22 Committee. Respondent understands and agrees that counsel for Complainant and the staff of the
23 Physician Assistant Committee may communicate directly with the Committee regarding this
24 stipulation and settlement, without notice to or participation by Respondent or his counsel. By
25 signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement
26 or seek to rescind the stipulation prior to the time the Committee considers and acts upon it. If the
27 Committee fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and
28 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible

1 in any legal action between the parties, and the Committee shall not be disqualified from further
2 action by having considered this matter.

3 14. The parties understand and agree that facsimile copies of this Stipulated
4 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force
5 and effect as the originals.

6 15. In consideration of the foregoing admissions and stipulations, the parties agree
7 that the Committee may, without further notice or formal proceeding, issue and enter the following
8 Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician Assistant No. PA 11963 issued to
11 Respondent Leon G. Pham is revoked. However, the revocation is stayed and Respondent is placed
12 on probation for five (5) years on the following terms and conditions.

13 1. ACTUAL SUSPENSION As part of probation, respondent is suspended
14 from the practice of medicine as a physician assistant for 14 days, beginning the effective date of this
15 decision.

16 2. CLINICAL TRAINING PROGRAM Within 90 days of the effective date
17 of this decision, respondent shall submit to the committee or its designee for its prior approval a
18 clinical training or educational program such as the Physician Assessment and Clinical Education
19 Program (PACE) offered by the University of California - San Diego School of Medicine or
20 equivalent program as approved by the committee or its designee. The exact number of hours and
21 the specific content of the program shall be determined by the committee or its designee.
22 Respondent shall bear the cost of this program.

23 3. MONITORING/SUPERVISION Within 30 days of the effective date of this
24 decision, respondent shall submit to the committee or its designee for its prior approval a plan of
25 practice in which respondent's practice shall be monitored by a supervising physician responsible
26 for patients treated by the physician assistant.

27 If the supervising physician/monitor resigns or is no longer available, respondent
28 shall, within 15 days, move to have a new supervising physician/monitor appointed, through

1 nomination by respondent and approval by the committee.

2 Respondent shall not practice as a physician assistant until the supervising physician
3 is approved by the committee.

4 4. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN

5 Respondent shall notify his current and any subsequent employer and supervising physician(s) of his
6 discipline and provide a copy of the Stipulation, Decision, and Order to each such employer and
7 supervising physician(s) during his period of probation, at the onset of that employment. Respondent
8 shall ensure that each employer informs the Physician Assistant Committee, or its agent, in writing
9 within thirty (30) days, verifying that the employer and supervising physician(s) have been informed
10 of this Stipulation and Order.

11 5. MAINTENANCE OF CURRENT DELEGATION OF SERVICES
12 AGREEMENT

13 Respondent shall at all times maintain an appropriate written delegation of services
14 agreement and written protocols with his supervising physician which shall include, among other
15 things, a requirement that the supervising physician shall delegate to the physician assistant only
16 those tasks and procedures consistent with the supervising physician's specialty or usual and
17 customary practice and with the patient's health and condition.

18 6. FILE MONTHLY PROBATION REPORTS Respondent shall submit
19 monthly declarations under penalty of perjury on forms provided by the committee or its designee,
20 stating whether there has been compliance with all the conditions of probation.

21 7. OBEY ALL LAWS Respondent shall obey all federal, state, and local laws,
22 and all rules governing the practice of medicine as a physician assistant in California, and remain
23 in full compliance with any court ordered criminal probation, payments, and other orders.

24 8. QUARTERLY REPORTS Respondent shall submit quarterly declarations
25 under penalty of perjury on forms provided by the committee or its designee, stating whether there
26 has been compliance with all the conditions of probation.

27 9. PROBATION SURVEILLANCE PROGRAM COMPLIANCE Respondent
28 shall comply with the committee's probation surveillance program. Respondent shall, at all times,
keep the committee informed of his addresses of business and residence which shall both serve as

1 addresses of record. Changes of such addresses shall be immediately communicated in writing to
2 the committee. Under no circumstances shall a post office box serve as an address of record, except
3 as allowed by California Code of Regulations 1399.523.

4 Respondent shall, at all times, maintain a current and renewed physician assistant
5 license.

6 Respondent shall also immediately inform the committee, in writing, of any travel
7 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than
8 thirty (30) days.

9 10. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall appear
10 in person for interviews with the committee's medical or expert physician assistant consultant upon
11 request at various intervals and with reasonable notice.

12 11. TOLLING FOR OUT-OF -STATE PRACTICE OR RESIDENCE The
13 period of probation shall not run during the time respondent is residing or practicing outside the
14 jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California
15 to reside or practice elsewhere, including federal facilities, respondent is required to immediately
16 notify the committee in writing of the date of departure and the date of return, if any.

17 12. INITIAL PROBATION INTERVIEW Respondent shall appear in person for
18 an initial interview with a designee of the Physician Assistant Committee within 90 days of the final
19 decision. Respondent shall subject himself to an initial interview at a time and place determined by
20 the committee or its designee.

21 13. UNANNOUNCED CLINICAL SITE VISIT At least once per calendar year,
22 or more frequently as determined by the committee or its designee, unannounced clinical site visits
23 shall be made by the committee or its designee to ensure that respondent is complying with all terms
24 and conditions of probation.

25 14. COMPLETION OF PROBATION Upon successful completion of probation
26 as determined by the committee's executive officer, respondent's license will be fully restored.

27 15. VIOLATION OF PROBATION If respondent violates probation in any
28 respect, the committee, after giving respondent notice and the opportunity to be heard, may revoke

1 probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke
2 probation is filed against respondent during probation, the committee shall have continuing
3 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
4 is final.

5 16. COST RECOVERY The respondent is hereby ordered to reimburse the
6 Physician Assistant Committee the amount of \$2000.00 for its investigative and prosecution costs
7 which amount shall be reimbursed over the course of three years by paying \$166.66 to the committee
8 or its designee on a quarterly basis, prior to the close of each quarter, with the first payment due
9 within 90 days from the effective date of this decision. The filing of bankruptcy by the respondent
10 shall not relieve the respondent of his responsibility to reimburse the committee for its costs. The
11 failure to reimburse the committee the total amount due within the three year period and/or the
12 failure to timely pay each quarterly payment shall constitute a violation(s) of probation.

13 17. VOLUNTARY LICENSE SURRENDER Following the effective date of this
14 probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable
15 to satisfy the terms and conditions of probation, respondent may voluntarily tender his license to the
16 committee. The committee reserves the right to evaluate the respondent's request and to exercise its
17 discretion whether to grant the request, or to take any other action deemed appropriate and
18 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent
19 will no longer be subject to the terms and conditions of probation.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
22 fully discussed it with my attorney, Robert F. Hahn, Esq.. I understand the stipulation and the effect
23 it will have on my Physician Assistant. I enter into this Stipulated Settlement and Disciplinary
24 Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Physician Assistant Committee, Medical Board of California.

26 DATED: 12/18/2003

27 LEON G. PHAM
28 Respondent

probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the committee shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. COST RECOVERY The respondent is hereby ordered to reimburse the Physician Assistant Committee the amount of \$2000.00 for its investigative and prosecution costs which amount shall be reimbursed over the course of three years by paying \$166.66 to the committee or its designee on a quarterly basis, prior to the close of each quarter, with the first payment due within 90 days from the effective date of this decision. The filing of bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse the committee for its costs. The failure to reimburse the committee the total amount due within the three year period and/or the failure to timely pay each quarterly payment shall constitute a violation(s) of probation.

17. VOLUNTARY LICENSE SURRENDER Following the effective date of this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his license to the committee. The committee reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

ACCEPTANCE

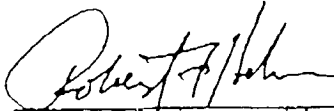
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert F. Hahn, Esq.. I understand the stipulation and the effect it will have on my Physician Assistant . I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physician Assistant Committee, Medical Board of California.

DATED: _____

LEON G. PHAM
Respondent

1 I have read and fully discussed with Respondent Leon G. Pham the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 12/18/03

5 
6

7 ROBERT F. HAHN, ESQ.
8 Attorney for Respondent

9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Physician Assistant Committee, Medical Board of California of
12 the Department of Consumer Affairs.

13
14 DATED: 12/19/03

15 BILL LOCKYER, Attorney General
16 of the State of California

17 

18 E. A. JONES III
19 Deputy Attorney General

20 Attorneys for Complainant

21 DOJ Docket/Matter ID Number: 03573160-LA2002AD1276
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BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

LEON G. PHAM
1939 Calle Sirena Drive
Glendale, CA 91028

Physician Assistant License No. PA 11963

Respondent.

Case No. 1E-2001-121054

FIRST AMENDED ACCUSATION

Complainant alleges:

PARTIES

1. Richard L. Wallinder, Jr. (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Officer of the Physician Assistant Committee, Department of Consumer Affairs.
2. On or about March 30, 1987, the Physician Assistant Committee (Committee) issued Physician Assistant License Number PA 11963 to Leon G. Pham (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2004, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Committee, under

1 the authority of the following sections of the Business and Professions Code (Code).

2 4. Section 3527, subdivision (a) of the Code states:

3 “(a) The committee may order the denial of an application for, or the
4 issuance subject to terms and conditions of, or the suspension or revocation of, or the
5 imposition of probationary conditions upon a physician’s assistant license after a hearing
6 as required in Section 3528 for unprofessional conduct which includes, but is not limited
7 to, a violation of this chapter, a violation of the State Medical Practice Act, or a violation
8 of the regulations adopted by the committee or the board.”

9 5. Section 2234 of the Code states:

10 “The Division of Medical Quality shall take action against any licensee
11 who is charged with unprofessional conduct. In addition to other provisions of this
12 article, unprofessional conduct includes, but is not limited to, the following:

13 “(a) Violating or attempting to violate, directly or indirectly, or assisting
14 in or abetting the violation of, or conspiring to violate, any provision of this chapter.

15 “(b) Gross negligence.

16 “(c) Repeated negligent acts. . . .

17 “(d) Incompetence

18 “[f] (f) Any action or conduct which would have warranted the denial of
19 a certificate.”

20 6. Section 3528 of the Code states that, in any proceedings involving the denial,
21 suspension or revocation of the application for licensure or the license of a physician assistant,
22 the application for approval or the approval of a supervising physician, or the application for
23 approval or the approval of an approval program under this chapter shall be conducted in
24 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
25 of the Government Code.

26 7. Section 3502 of the Code states, in pertinent part:

27 “(a) Notwithstanding any other provision of law, a physician assistant may
28 perform those medical services as set forth by the regulations of the board when the

1 services are rendered under the supervision of a licensed physician and surgeon or of
2 physicians and surgeons approved by the board, except as provided in Section 3502.5 . . .
3 .”

4 8. Section 3502.1 of the Code states:

5 “(a) In addition to the services authorized in the regulations adopted by the
6 board, and except as prohibited by Section 3502, while under the supervision of a
7 licensed physician and surgeon or physicians and surgeons authorized by law to supervise
8 a physician assistant, a physician assistant may administer or provide medication to a
9 patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to
10 a person who may lawfully furnish the medication or medical device pursuant to
11 subdivisions (c) and (d).

12 “(1) A supervising physician and surgeon who delegates authority to
13 issue a drug order to a physician assistant may limit this authority by specifying
14 the manner in which the physician assistant may issue delegated prescriptions.

15 “(2) Each supervising physician and surgeon who delegates the authority
16 to issue a drug order to a physician assistant shall first prepare and adopt or adopt,
17 a written, practice specific, formulary and protocols that specify all criteria for the
18 use of a particular drug or device, and any contraindications for the selection. The
19 drugs listed shall constitute the formulary and shall include only drugs that are
20 appropriate for use in the type of practice engaged in by the supervising physician
21 and surgeon. When issuing a drug order, the physician assistant is acting on
22 behalf of and as an agent for a supervising physician and surgeon.

23 “(b) ‘Drug order’ for purposes of this section means an order for medication
24 which is dispensed to or for a patient, issued and signed by a physician assistant acting as
25 an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code
26 of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order
27 issued pursuant to this section shall be treated in the same manner as a prescription or
28 order of the supervising physician, (2) all references to ‘prescription’ in this code and the

1 Health and Safety Code shall include drug orders issued by physician assistants pursuant
2 to authority granted by their supervising physicians, and (3) the signature of a physician
3 assistant on a drug order shall be deemed to be the signature of a prescriber for purposes
4 of this code and the Health and Safety Code.

5 “(c) A drug order for any patient cared for by the physician assistant that is
6 issued by the physician assistant shall either be based on the protocols described in
7 subdivision (a) or shall be approved by the supervising physician before it is filled or
8 carried out.

9 “(1) A physician assistant shall not administer or provide a drug or issue
10 a drug order for a drug other than for a drug listed in the formulary without
11 advance approval from a supervising physician and surgeon for the particular
12 patient. At the direction and under the supervision of a physician and surgeon, a
13 physician assistant may hand to a patient of the supervising physician and surgeon
14 a properly labeled prescription drug prepackaged by a physician and surgeon,
15 manufacturer as defined in the Pharmacy Law, or a pharmacist.

16 “(2) A physician assistant may not administer, provide or issue a drug
17 order for Schedule II through Schedule V controlled substances without advance
18 approval by a supervising physician and surgeon for the particular patient.

19 “(3) Any drug order issued by a physician assistant shall be subject to a
20 reasonable quantitative limitation consistent with customary medical practice in
21 the supervising physician and surgeon's practice.

22 “(d) A written drug order issued pursuant to subdivision (a), except a written
23 drug order in a patient's medical record in a health facility or medical practice, shall
24 contain the printed name, address, and phone number of the supervising physician and
25 surgeon, the printed or stamped name and license number of the physician assistant, and
26 the signature of the physician assistant. Further, a written drug order for a controlled
27 substance, except a written drug order in a patient's medical record in a health facility or a
28 medical practice, shall include the federal controlled substances registration number of

1 the physician assistant. The requirements of this subdivision may be met through
2 stamping or otherwise imprinting on the supervising physician and surgeon's prescription
3 blank to show the name, license number, and if applicable, the federal controlled
4 substances number of the physician assistant, and shall be signed by the physician
5 assistant. When using a drug order, the physician assistant is acting on behalf of and as
6 the agent of a supervising physician and surgeon.

7 “(e) The medical record of any patient cared for by a physician assistant for
8 whom the supervising physician and surgeon's drug order has been issued or carried out
9 shall be reviewed and countersigned and dated by a supervising physician and surgeon
10 within seven days.

11 “(f) All physician assistants who are authorized by their supervising physicians
12 to issue drug orders for controlled substances shall register with the United States Drug
13 Enforcement Administration (DEA).”

14 9. California Code of Regulations, Title 16, section 1399.521, states:

15 “In addition to the grounds set forth in section 3527, subd. (a), of the code the
16 committee may deny, issue subject to terms and conditions, suspend, revoke or place on
17 probation a physician assistant for the following causes:

18 “(a) Any violation of the State Medical Practice Act which would constitute
19 unprofessional conduct for a physician and surgeon.

20 “(b) Using fraud or deception in passing an examination administered or
21 approved by the committee.

22 “(c) Practicing as a physician assistant under a physician or other person who has
23 not received the approval of the board, or the Board of Osteopathic Examiners in the case
24 of a supervising physician licensed by that board, to supervise a physician assistant.

25 “(d) Practicing as a physician assistant under a physician whose approval to
26 supervise a physician assistant has been suspended or revoked.

27 “(e) Performing medical tasks which exceed the scope of practice of a physician
28 assistant as prescribed in these regulations.”

1 10. California Code of Regulations, Title 16, section 1399.540, states:

2 “A physician assistant may only provide those medical services which he or she is
3 competent to perform and which are consistent with the physician assistant’s education, training,
4 and experience, and which are delegated in writing by a supervising physician who is responsible
5 for the patients cared for by that physician assistant. The committee or division or their
6 representative may require proof or demonstration of competence from any physician assistant
7 for any tasks, procedures or management he or she is performing. A physician assistant shall
8 consult with a physician regarding any task, procedure or diagnostic problem which the
9 physician assistant determines exceeds his or her level of competence or shall refer such cases to
10 a physician.”

11 11. California Code of Regulations, Title 16, section 1399.541, subdivision (h),
12 states, in pertinent part:

13 “[¶] In any setting, . . . a physician assistant may, pursuant to a delegation and protocols
14 where present:

15 “[¶](h) Administer medication to a patient, or transmit orally, or in writing on a
16 patient’s record, a prescription from his or her supervising physician to a person who may
17 lawfully furnish such medication or medical device. The supervising physician’s
18 prescription, transmitted by the physician assistant, for any patient cared for by the
19 physician assistant, shall be based either on a patient-specific order by the supervising
20 physician or on written protocol which specifies all criteria for the use of a specific drug
21 or device and any contraindications for the selection. A physician assistant shall not
22 provide a drug or transmit a prescription for a drug other than that drug specified in the
23 protocol, without a patient-specific order from a supervising physician. . . . In any case,
24 the medical record of any patient cared for by the physician assistant for whom the
25 physician’s prescription has been transmitted or carried out shall be reviewed and
26 countersigned and dated by a supervising physician within seven (7) days. A physician
27 assistant may not administer, provide or transmit a prescription for controlled substances
28 in Schedules II through V inclusive without patient-specific authority by a supervising

1 physician.”

2 12. California Code of Regulations, Title 16, section 1399.545, subdivision (d)
3 states:

4 “The physician assistant and the supervising physician shall establish in writing transport
5 and back-up procedures for the immediate care of patients who are in need of emergency care
6 beyond the physician assistant’s scope of practice for such times when a supervising physician is
7 not on the premises.”

8 13. California Code of Regulations, Title 16, section 1399.545, subdivision (e),
9 states:

10 “A physician assistant and his or her supervising physician shall establish in writing
11 guidelines for the adequate supervision of the physician assistant which shall include one or more
12 of the following mechanisms:

13 “(1) Examination of the patient by a supervising physician the same day as care is
14 given by the physician assistant;

15 “(2) Countersignature and dating of all medical records written by the physician
16 assistant within thirty (30) days that the care was given by the physician assistant;

17 “(3) The supervising physician may adopt protocols to govern the performance of
18 a physician assistant for some or all tasks. . . . The supervising physician shall review,
19 countersign, and date a minimum of 10% sample of medical records of patients treated by
20 the physician assistant functioning under these protocols within thirty (30) days. . . .”

21 14. Section 125.3 of the Code states, in pertinent part, that the Board may
22 request the administrative law judge to direct a licensee found to have committed a violation or
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
24 and enforcement of the case.

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Exceeding Authority as Physician Assistant)

27 15. Respondent is subject to discipline under section 3502, in conjunction with
28 California Code of Regulations, Title 16, section 1399.521, subdivision (e), section 1399.540,

1 section 1399.541, subdivision (h), and section 1399.545, subdivision (e), in that he provided
2 services and engaged in conduct which exceeded the scope of practice as a physician assistant; he
3 engaged in unrestricted management and treatment of patients without consultation with a
4 supervising physician. The facts and circumstances are as follows:

5 **CLINIC AT 4545 VAN NUYS BLVD.**

6 **PATIENT R.S.¹**

7 A. Respondent saw patient R.S., a 38-year-old male, on January 4, 2001. R.S.
8 complained of weight gain and hoarse voice. R.S. was a smoker (2 packs per day) with a past
9 surgical history of angioplasty and vasectomy. Medications listed were Zyprex and Prozac, used
10 to treat depression. Respondent did not elicit a history of the present illness. The physical
11 examination was remarkable for a mildly injected oropharynx; lungs with decreased breath
12 sounds and rhonchi; and paralumbar tenderness.

13 B. The diagnosis was listed as: "Arrhythmia, smokers [sic] bronchitis,
14 exogenous obesity, depression and nicotine abuse." Respondent prescribed Fastin
15 (phentermine), a scheduled medication used to suppress appetite, and advised diet counseling and
16 to stop smoking.

17 C. Respondent ordered the following tests: EKG, pulmonary function tests,
18 comprehensive blood panel, urinalysis, chest x-ray and echocardiogram. The EKG tracing
19 indicated premature ventricular beats, sinus tachycardia, possible anterior infarction, ST-T
20 abnormality and left atrial enlargement. The chemistry blood panel indicated a total cholesterol
21 of 299, and triglycerides 562 (normal is less than 200). A CEA (carcinoembryonic antigen) was
22 reported as abnormal at 8.6.

23 D. Respondent exceeded his authority as a physician's assistant as to patient
24 R.S., in that Respondent prescribed medication without a practice-specific formulary, and failed
25 to obtain patient-specific authorization from the supervising physician.

26 **PATIENT O.C.**

27 _____
28 1. Patients are referred to by their initials to protect their privacy. Their full names will be
disclosed upon a timely request for discovery.

1 E. Respondent saw patient O.C., a 38-year-old female, in December of 2000.
2 Patient O.C. complained of recurrent abdominal pain and nausea. No history of present illness
3 was obtained. Patient O.C. was on medication for high blood pressure and hyperlipidia. Reason
4 for the visit was noted as "pancreatitis." It was also noted that patient O.C. had her bladder
5 surgically removed in 1996. The physical examination was unremarkable with the exception of
6 the abdominal examination indicating epigastric tenderness.

7 F. The diagnosis was recorded as: "History of Pancreatitis, Chronic Abdominal
8 Pain, R/O (rule out) Hiatal Hernia, Mild Obesity, HTN (Hypertension)." Respondent ordered the
9 following tests: EKG; comprehensive blood panel, including blood analysis for rheumatoid
10 arthritis; urinalysis; and abdominal ultrasound. Respondent prescribed Prilosec. The test results
11 were unremarkable with the exception of markedly elevated cholesterol and triglycerides. There
12 was a notation in the laboratory chart to call patient ASAP, and start Lipitor 2-mg. There was no
13 anylase or lipase ordered.

14 G. Respondent exceeded his authority as a physician's assistant as to patient
15 O.C., in that Respondent prescribed medication (Prilosec and Lipitor) without a practice-specific
16 order from the supervising physician, and the practice lacked a practice formulary.

17 PATIENT A.S.

18 H. Patient A.S., a 58-year-old female, was seen by Respondent on December
19 15, 2000, for an evaluation. She complained of shortness of breath, dyspnea, occasional chest
20 pain upon exertion, low back pain and knee pain. No history of present illness was taken.
21 Patient A.S. had a history of diabetes, and smoked one pack of cigarettes per day. Her
22 medications included Glucophage and Avandia for diabetes; Tenormin for high blood pressure;
23 Celebrex, prescribed for arthritis; and one aspirin daily. Her physical examination indicated a
24 weight of 220 pounds, and was remarkable for bilateral wheezes on lung examination, and one
25 plus edema of the extremities.

26 I. The diagnosis was listed as "Obesity; HTN (hypertension); AODM (Adult
27 Onset Diabetes Mellitus); Smoking Cessation; Vertigo; COPD (Chronic Obstructive Pulmonary
28 Disease)." Respondent prescribed Zyban for smoking cessation, and referred patient A.S. for an

1 ophthalmological examination. Respondent ordered an EKG, complete blood panel, urinalysis,
2 echocardiogram, and glycosylated hemoglobin. The test results indicated a potassium of 8mEq,
3 sodium of 133, and a glucose of 347.

4 J. Respondent exceeded his authority as a physician's assistant as to patient
5 A.S., in that Respondent prescribed medication without a practice-specific order from the
6 supervising physician, and without a practice-specific formulary.

7 PATIENT G.K.

8 K. Respondent saw patient G.K., a 54-year-old female, on December 29, 2000.
9 She complained of dyspnea on exertion and post-prandial right upper quadrant abdominal pain.
10 No history of the present illness was taken. Patient G.K. was taking Uniphyl and Albuterol,
11 medication used in the treatment of asthma. The physical examination was remarkable for an
12 obese female (weighing 200 pounds); lung examination found with bilateral wheezes and
13 decreased breath sounds; right upper quadrant abdominal tenderness; and tenderness in the right
14 costovertebral angle.

15 L. Respondent diagnosed patient G.K. with: "COPD (Chronic Obstructive
16 Pulmonary Disease)/asthma; Obesity; Osteoarthritis; Hypertension; Post menopausal syndrome;
17 and RUQ (right upper quadrant) abdominal pain, R/O (rule out) cholelithiasis." Respondent
18 prescribed Fastin (phentermine), a Scheduled medication used as an appetite suppressant.
19 Respondent also ordered an EKG, pulmonary function test, comprehensive blood panel,
20 urinalysis, echocardiogram, and abdominal ultrasound.

21 M. A follow-up visit on January 11, 2001, for urinary frequency, did not
22 address her previous complaints of abdominal pain, nor whether the ordered tests had been
23 performed. No abdominal examination was performed. Respondent diagnosed urinary
24 incontinence and ordered a urine flow study. Patient G.K. was not advised of her mild anemia,
25 nor elevated calcium level.

26 N. Respondent exceeded his authority as a physician's assistant as to patient
27 G.K., in that Respondent ordered diagnostic tests that were not clinically indicated, made
28 assessments without a history or physical findings, and prescribed Scheduled medication without

1 a patient-specific order from the supervising physician.

2 **CLINIC AT 638 E. COLORADO STREET**

3 O. From sometime in 2000 until February of 2002, Respondent also worked at
4 the Adeoye Valley Medical Group, Inc. (the "Clinic"), 638 E. Colorado Street, Glendale,
5 California, with a Christopher Adeoye, M.D. Respondent stated that the Clinic was owned 51%
6 by Dr. Adeoye and 49% by Respondent. Also, according to Respondent, Dr. Adeoye ceased
7 association with the Clinic in approximately February of 2002, and Talat Khan, M.D. became a
8 co-owner of the Clinic (with Respondent) and Respondent's primary supervisor in May 2002.
9 Dr. Khan practices psychiatry, general practice and neurology. As of July 31, 2002, no
10 Delegation of Services Agreement had been signed by Dr. Khan. The Clinic was renamed
11 "Langve Medical Group, Inc.," although the sign outside the building identified the business as
12 "Glendale Family Health Center."

13 P. Also according to Respondent, a Mark Germine, M.D. began working at the
14 Clinic on June 14, 2002, and also supervised Respondent. In July of 2002, Respondent was
15 unable to produce a Delegation of Services Agreement signed by himself and Dr. Khan and
16 unable to produce any protocols for the practice, or supervision guidelines signed by Respondent
17 and Dr. Khan. As of July 31, 2002, Respondent was unable to produce any charts signed by Dr.
18 Khan.

19 Q. In August of 2002, Respondent produced certain protocols and guidelines
20 signed by Dr. Khan and dated July 1, 2002, although Respondent and Khan began seeing patients
21 at the Clinic in May or June of 2002. The Delegation of Services Agreements, in effect, gave
22 Respondent unrestricted permission to manage or treat all patients without consultation with any
23 physician. In addition, the guidelines were overbroad, as they would allow Respondent to treat
24 patients in areas that exceeded the supervising physician's specialty, thus allowing Respondent
25 to function autonomously in all medical disciplines.

26 R. During a drop-in audit conducted by the Department of Health Services
27 (November 13, 2001), and again during the Medical Board of California investigation (between
28 March and August of 2002), Respondent was unable to provide any medical charts that had been

1 reviewed and co-signed by any supervising physician; the procedures performed by Respondent
2 lacked sufficient documentation to substantiate medical necessity; there was no evidence of any
3 follow-up care; and the guidelines produced by Respondent did not include a practice specific
4 formulary or a patient specific formulary, as required under the Physician Assistant Practice Act,
5 for the provision, administration or transmission of medications.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Gross Negligence)

8 16. Respondent is subject to disciplinary action under section 3527, in
9 conjunction with California Code of Regulations, Title 16, section 1399.521, subdivision (a), as a
10 violation of Business and Professions Code section 2234, subdivision (b), in that he committed
11 acts of gross negligence in his care, management and treatment of patients R.S., O.C., A.S., and
12 G.K. Respondent is also subject to disciplinary action under section 3502.1, subdivision (a), in
13 conjunction with California Code of Regulations, Title 16, section 1399.545(e), in that the
14 protocols and guidelines under which Respondent worked were overbroad and inadequate,
15 allowing Respondent to practice autonomously in all medical disciplines. The circumstances are
16 as follows:

17 17. The facts and circumstances set forth in paragraphs 15A-R are incorporated
18 herein.

19 18. Regarding Patient A.S., Respondent also failed to consult and/or refer the
20 patient (who complained of angina, a potentially life-threatening condition) for further
21 evaluation.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Repeated Negligence Acts)

24 19. Respondent is subject to disciplinary action under section 3527, in
25 conjunction with California Code of Regulations, Title 16, section 1399.521, subdivision (a), as a
26 violation of Business and Professions Code section 2234, subdivision (c), in that he committed
27 repeated negligent acts in his care, management and treatment of patients R.S., O.C., A.S., and
28 G.K. Respondent is also subject to discipline under section 3502.1, in conjunction with

1 California Code of Regulations, Title 16, section 1399.541, subdivision (h), in that Respondent
2 practiced without a practice-specific formulary or a patient-specific formulary. The
3 circumstances are as follows:

4 20. The facts and circumstances set forth in paragraphs 15A-R, are
5 incorporated herein.

6 21. Regarding Patient R.S., Respondent failed to obtain a history of present
7 illness in a patient presenting with a complaint of weight gain (150 pounds in one year) and
8 hoarseness; failed to thoroughly assess the patient's complaint of hoarseness; failed to explore
9 prior history of angioplasty; ordered diagnostic tests of questionable significance; failed to
10 discuss abnormal EKG findings with a supervising physician; and prescribed an appetite
11 suppressant with potential cardiac side effects.

12 22. Regarding Patient O.C., Respondent failed to take a history of present
13 illness, including aggravating or ameliorating factors; failed to order an amylase or lipase in a
14 patient with abdominal pain and a history of pancreatitis; and failed to consult with a supervising
15 physician or refer the patient to a specialist due to her chronic and potentially fatal disease.

16 23. Regarding Patient A.S., Respondent failed to obtain a history of her present
17 illness; failed to consult and/or refer the patient (who complained of angina, a potentially life-
18 threatening condition) for further evaluation; failed to repeat a lab analysis incompatible with
19 life, and prescribing a medication adjustment without repeating the test; and failed to obtain any
20 clinical history to support the diagnosis of vertigo or make treatment recommendations.

21 24. Regarding Patient G.K., Respondent failed to obtain a history of the present
22 illness; failed to treat an asthmatic patient in bronchospasm; failed to diagnose the cause of the
23 patient's upper right quadrant abdominal pain; ordered diagnostic tests that were not clinically
24 indicated; and made diagnostic assessments without a history or physical findings.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 (Incompetence)

27 25. Respondent is subject to disciplinary action under section 3527, in
28 conjunction with California Code of Regulations, Title 16, section 1399.521, subdivision (a), as a

violation of Business and Professions Code section 2234, subdivision (d), in that he was incompetent in his care, management and treatment of patients R.S., O.C., A.S., and G. Respondent is additionally subject to disciplinary action under section 3527, in conjunction with California Code of Regulations, Title 16, section 1399.545, subdivision (d), in that the guidelines and protocols under which Respondent worked did not provide adequate supervision and allowed Respondent to treat patients in areas that exceeded the supervising physician's specialty. The circumstances are as follows:

26. The facts and circumstances set forth in paragraphs 12A-R, and 21-24, are incorporated herein.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to disciplinary action under sections 3502.1, and 3527, subdivision (a), in conjunction with California Code of Regulations, Title 16, sections 1399.521, subdivision (e), 1399.540 and 1399.545, subdivision (e), in that he performed medical tasks which exceeded the scope of practice of a physician's assistant, and administered medication without the order of a supervising physician, and which was not based on office protocol. The circumstances are as follows:

28. The facts and circumstances set forth in paragraphs 12A-R, 16-18, and 21-24, are incorporated herein.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physician Assistant Committee issue a decision:

1. Revoking or suspending Physician Assistant License Number PA 11963,
issued to Leon G. Pham;

2. Ordering Leon G. Pham to pay the Physician Assistant Committee the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: February 20, 2003


RICHARD L. WALLINDER JR.
Executive Officer
Physician Assistant Committee
Department of Consumer Affairs
State of California
Complainant

03573160-LA02 1276

2First Amended Accusation.wpt 10/19/01

TS:7-11-02

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 1, 2002
BY Celine Buzanda ANALYST

8 BEFORE THE
9 PHYSICIAN ASSISTANT COMMITTEE
10 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 1E-2001-121054

12 LEON G. PHAM
1939 Calle Sirena Drive
13 Glendale, CA 91028

ACCUSATION

14 Physician Assistant License No. PA 11963

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Richard L. Wallinder, Jr. (Complainant) brings this Accusation solely in
20 his official capacity as the Executive Officer of the Physician Assistant Committee, Department
21 of Consumer Affairs.

22 2. On or about March 30, 1987, the Physician Assistant Committee
23 (Committee) issued Physician Assistant License Number PA 11963 to Leon G. Pham
24 (Respondent). The Physician Assistant License was in full force and effect at all times relevant
25 to the charges brought herein and will expire on December 31, 2002, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Committee, under the authority of
28 the following sections of the Business and Professions Code (Code).

1 4. Section 3527 subdivision (a) of the Code states:

2 “(a) The committee may order the denial of an application for, or the
3 issuance subject to terms and conditions of, or the suspension or revocation of, or the
4 imposition of probationary conditions upon a physician’s assistant license after a hearing
5 as required in Section 3528 for unprofessional conduct which includes, but is not limited
6 to, a violation of this chapter, a violation of the State Medical Practice Act, or a violation
7 of the regulations adopted by the committee or the board.”

8 5. Section 2234 of the Code states:

9 “The Division of Medical Quality shall take action against any licensee
10 who is charged wit unprofessional conduct. In addition to other provisions of this article,
11 unprofessional conduct includes, but is not limited to, the following:

12 “(a) Violating or attempting to violate, dir4ctly or indirectly, or assisting
13 in or abetting the violation of, or conspiring to violate, any provision of this chapter.

14 “(b) Gross negligence.

15 “(c) Repeated negligent acts.

16 “(d) Incompetence

17 * * *

18 “(f) Any action or conduct which would have warranted the denial of a
19 certificate.”

20 6. Section 3528 of the Code states that, in any proceedings involving the denial,
21 suspension or revocation of the application for licensure or the license of a physician assistant,
22 the application for approval or the approval of a supervising physician, or the application for
23 approval or the approval of an approval program under this chapter shall be conducted in
24 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
25 of the Government Code.

26 7. Section 3502 of the Code states, in pertinent part::

27 “(a) Notwithstanding any other provision of law, a physician assistant may
28 perform those medical services as set forth by the regulations of the board when the

1 services are rendered under the supervision of a licensed physician and surgeon or of
2 physicians and surgeons approved by the board, except as provided in Section 3502.5 . . .
3 .”

4 8. Section 3502.1 of the Code states:

5 “(a) In addition to the services authorized in the regulations adopted by the
6 board, and except as prohibited by Section 3502, while under the supervision of a
7 licensed physician and surgeon or physicians and surgeons authorized by law to supervise
8 a physician assistant, a physician assistant may administer or provide medication to a
9 patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to
10 a person who may lawfully furnish the medication or medical device pursuant to
11 subdivisions (c) and (d).

12 “(1) A supervising physician and surgeon who delegates authority to
13 issue a drug order to a physician assistant may limit this authority by specifying
14 the manner in which the physician assistant may issue delegated prescriptions.

15 “(2) Each supervising physician and surgeon who delegates the authority
16 to issue a drug order to a physician assistant shall first prepare and adopt or adopt,
17 a written, practice specific, formulary and protocols that specify all criteria for the
18 use of a particular drug or device, and any contraindications for the selection. The
19 drugs listed shall constitute the formulary and shall include only drugs that are
20 appropriate for use in the type of practice engaged in by the supervising physician
21 and surgeon. When issuing a drug order, the physician assistant is acting on
22 behalf of and as an agent for a supervising physician and surgeon.

23 “(b) ‘Drug order’ for purposes of this section means an order for medication
24 which is dispensed to or for a patient, issued and signed by a physician assistant acting as
25 an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code
26 of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order
27 issued pursuant to this section shall be treated in the same manner as a prescription or
28 order of the supervising physician, (2) all references to ‘prescription’ in this code and the

1 Health and Safety Code shall include drug orders issued by physician assistants pursuant
2 to authority granted by their supervising physicians, and (3) the signature of a physician
3 assistant on a drug order shall be deemed to be the signature of a prescriber for purposes
4 of this code and the Health and Safety Code.

5 “(c) A drug order for any patient cared for by the physician assistant that is
6 issued by the physician assistant shall either be based on the protocols described in
7 subdivision (a) or shall be approved by the supervising physician before it is filled or
8 carried out.

9 “(1) A physician assistant shall not administer or provide a drug or issue
10 a drug order for a drug other than for a drug listed in the formulary without
11 advance approval from a supervising physician and surgeon for the particular
12 patient. At the direction and under the supervision of a physician and surgeon, a
13 physician assistant may hand to a patient of the supervising physician and surgeon
14 a properly labeled prescription drug prepackaged by a physician and surgeon,
15 manufacturer as defined in the Pharmacy Law, or a pharmacist.

16 “(2) A physician assistant may not administer, provide or issue a drug
17 order for Schedule II through Schedule V controlled substances without advance
18 approval by a supervising physician and surgeon for the particular patient.

19 “(3) Any drug order issued by a physician assistant shall be subject to a
20 reasonable quantitative limitation consistent with customary medical practice in
21 the supervising physician and surgeon's practice.

22 “(d) A written drug order issued pursuant to subdivision (a), except a written
23 drug order in a patient's medical record in a health facility or medical practice, shall
24 contain the printed name, address, and phone number of the supervising physician and
25 surgeon, the printed or stamped name and license number of the physician assistant, and
26 the signature of the physician assistant. Further, a written drug order for a controlled
27 substance, except a written drug order in a patient's medical record in a health facility or a
28 medical practice, shall include the federal controlled substances registration number of

1 the physician assistant. The requirements of this subdivision may be met through
2 stamping or otherwise imprinting on the supervising physician and surgeon's prescription
3 blank to show the name, license number, and if applicable, the federal controlled
4 substances number of the physician assistant, and shall be signed by the physician
5 assistant. When using a drug order, the physician assistant is acting on behalf of and as
6 the agent of a supervising physician and surgeon.

7 “(e) The medical record of any patient cared for by a physician assistant for
8 whom the supervising physician and surgeon's drug order has been issued or carried out
9 shall be reviewed and countersigned and dated by a supervising physician and surgeon
10 within seven days.

11 “(f) All physician assistants who are authorized by their supervising physicians
12 to issue drug orders for controlled substances shall register with the United States Drug
13 Enforcement Administration (DEA).”

14 9. California Code of Regulations, Title 16, section 1399.521, states:

15 “In addition to the grounds set forth in section 3527, subd. (a), of the code the
16 committee may deny, issue subject to terms and conditions, suspend, revoke or place on
17 probation a physician assistant for the following causes:

18 “(a) Any violation of the State Medical Practice Act which would constitute
19 unprofessional conduct for a physician and surgeon.

20 “(b) Using fraud or deception in passing an examination administered or
21 approved by the committee.

22 “(c) Practicing as a physician assistant under a physician or other person who has
23 not received the approval of the board, or the Board of Osteopathic Examiners in the case
24 of a supervising physician licensed by that board, to supervise a physician assistant.

25 “(d) Practicing as a physician assistant under a physician whose approval to
26 supervise a physician assistant has been suspended or revoked.

27 “(e) Performing medical tasks which exceed the scope of practice of a physician
28 assistant as prescribed in these regulations.”

10. California Code of Regulations, Title 16, section 1399.540, states:

“A physician assistant may only provide those medical services which he or she is competent to perform and which are consistent with the physician assistant’s education, training, and experience, and which are delegated in writing by a supervising physician who is responsible for the patients cared for by that physician assistant. The committee or division or their representative may require proof or demonstration of competence from any physician assistant for any tasks, procedures or management he or she is performing. A physician assistant shall consult with a physician regarding any task, procedure or diagnostic problem which the physician assistant determines exceeds his or her level of competence or shall refer such cases to a physician.”

11. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Exceeding Authority as Physician Assistant)

12. Respondent is subject to discipline under section 3502, in conjunction with California Code of Regulations, Title 16, section 1399.521, subdivision (e), in that he provided services to patients R.S., O.C., A.S., and G.K.¹, which exceeded the scope of practice as a physician assistant. The facts and circumstances are as follows:

PATIENT R.S.

A. Respondent saw patient R.S., a 38-year-old male, on January 4, 2001. R.S. complained of weight gain and hoarse voice. R.S. was a smoker (2 packs per day) with a past surgical history of angioplasty and vasectomy. Medications listed were Zyprex and Prozac, used to treat depression. Respondent did not elicit a history of the present illness. The physical examination was remarkable for a mildly injected oropharynx; lungs with decreased breath

1. Patients R.S., O.C., A.S., and G.K., are referred to by their initials to protect their privacy. Their full names will be disclosed upon a timely request for discovery.

1 sounds and rhonchi; and paralumbar tenderness.

2 B. The diagnosis was listed as: "Arrhythmia, smokers [sic] bronchitis,
3 exogenous obesity, depression and nicotine abuse." Respondent prescribed Fastin
4 (phentermine), a scheduled medication used to suppress appetite, and advised diet counseling and
5 to stop smoking.

6 C. Respondent ordered the following tests: EKG, pulmonary function tests,
7 comprehensive blood panel, urinalysis, chest x-ray and echocardiogram. The EKG tracing
8 indicated premature ventricular beats, sinus tachycardia, possible anterior infarction, ST-T
9 abnormality and left atrial enlargement. The chemistry blood panel indicated a total cholesterol
10 of 299, and triglycerides 562 (normal is less than 200). A CEA (carcinoembryonic antigen) was
11 reported as abnormal at 8.6.

12 D. Respondent exceeded his authority as a physician's assistant as to patient
13 R.S., in that Respondent prescribed medication without a practice-specific formulary, and failed
14 to obtain patient-specific authorization from the supervising physician.

15 **PATIENT O.C.**

16 E. Respondent saw patient O.C., a 38-year-old female, in December of 2000.
17 Patient O.C. complained of recurrent abdominal pain and nausea. No history of present illness
18 was obtained. Patient O.C. was on medication for high blood pressure and hyperlipidia. Reason
19 for the visit was noted as "pancreatitis." It was also noted that patient O.C. had her bladder
20 surgically removed in 1996. The physical examination was unremarkable with the exception of
21 the abdominal examination indicating epigastric tenderness.

22 F. The diagnosis was recorded as: "History of Pancreatitis, Chronic Abdominal
23 Pain, R/O (rule out) Hiatal Hernia, Mild Obesity, HTN (Hypertension)." Respondent ordered the
24 following tests: EKG; comprehensive blood panel, including blood analysis for rheumatoid
25 arthritis; urinalysis; and abdominal ultrasound. Respondent prescribed Prilosec. The test results
26 were unremarkable with the exception of markedly elevated cholesterol and triglycerides. There
27 was a notation in the laboratory chart to call patient ASAP, and start Lipitor 2-mg. There was no
28 anylase or lipase ordered.

1 G. Respondent exceeded his authority as a physician's assistant as to patient
2 O.C., in that Respondent prescribed medication (Prilosec and Lipitor) without a practice-specific
3 order from the supervising physician, and the practice lacked a practice formulary.

4 **PATIENT A.S.**

5 H. Patient A.S., a 58-year-old female, was seen by Respondent on December
6 15, 2000, for an evaluation. She complained of shortness of breath, dyspnea, occasional chest
7 pain upon exertion, low back pain and knee pain. No history of present illness was taken.
8 Patient A.S. had a history of diabetes, and smoked one pack of cigarettes per day. Her
9 medications included Glucophage and Avandia for diabetes; Tenormin for high blood pressure;
10 Celebrex, prescribed for arthritis; and one aspirin daily. Her physical examination indicated a
11 weight of 220 pounds, and was remarkable for bilateral wheezes on lung examination, and one
12 plus edema of the extremities.

13 I. The diagnosis was listed as "Obesity; HTN (hypertension); AODM (Adult
14 Onset Diabetes Mellitus); Smoking Cessation; Vertigo; COPD (Chronic Obstructive Pulmonary
15 Disease)." Respondent prescribed Zyban for smoking cessation, and referred patient A.S. for an
16 ophthalmological examination. Respondent ordered an EKG, complete blood panel, urinalysis,
17 echocardiogram, and glycosylated hemoglobin. The test results indicated a potassium of 8mEq,
18 sodium of 133, and a glucose of 347.

19 J. Respondent exceeded his authority as a physician's assistant as to patient
20 A.S., in that Respondent prescribed medication without a practice-specific order from the
21 supervising physician, and without a practice-specific formulary.

22 **PATIENT G.K.**

23 K. Respondent saw patient G.K., a 54-year-old female, on December 29, 2000.
24 She complained of dyspnea on exertion and post-prandial right upper quadrant abdominal pain.
25 No history of the present illness was taken. Patient G.K. was taking Uniphyll and Albuterol,
26 medication used in the treatment of asthma. The physical examination was remarkable for an
27 obese female (weighing 200 pounds); lung examination found with bilateral wheezes and
28 decreased breath sounds; right upper quadrant abdominal tenderness; and tenderness in the right

1 costovertebral angle.

2 L. Respondent diagnosed patient G.K. with: "COPD (Chronic Obstructive
3 Pulmonary Disease)/asthma; Obesity; Osteoarthritis; Hypertension; Post menopausal syndrome;
4 and RUQ (right upper quadrant) abdominal pain, R/O (rule out) cholelithiasis." Respondent
5 prescribed Fastin (phentermine), a Scheduled medication used as an appetite suppressant.
6 Respondent also ordered an EKG, pulmonary function test, comprehensive blood panel,
7 urinalysis, echocardiogram, and abdominal ultrasound.

8 M. A follow-up visit on January 11, 2001, for urinary frequency, did not
9 address her previous complaints of abdominal pain, nor whether the ordered tests had been
10 performed. No abdominal examination was performed. Respondent diagnosed urinary
11 incontinence and ordered a urine flow study. Patient G.K. was not advised of her mild anemia,
12 nor elevated calcium level.

13 N. Respondent exceeded his authority as a physician's assistant as to patient
14 G.K., in that Respondent ordered diagnostic tests that were not clinically indicated, made
15 assessments without a history or physical findings, and prescribed Scheduled medication without
16 a patient-specific order from the supervising physician.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Gross Negligence)

19 13. Respondent is subject to disciplinary action under section 3527, in
20 conjunction with California Code of Regulations, Title 16, section 1399.521, subdivision (a), as a
21 violation of Business and Professions Code section 2234, subdivision (b), in that he committed
22 acts of gross negligence in his care, management and treatment of patients R.S., O.C., A.S., and
23 G.K. The circumstances are as follows:

24 14. The facts and circumstances set forth in paragraphs 12A-N are incorporated
25 herein.

26 15. Regarding Patient A.S., Respondent failed to consult and/or refer the patient
27 (who complained of angina, a potentially life-threatening condition) for further evaluation.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Incompetence)

3 22. Respondent is subject to disciplinary action under section 3527, in
4 conjunction with California Code of Regulations, Title 16, section 1399.521, subdivision (a), as a
5 violation of Business and Professions Code section 2234, subdivision (d), in that he was
6 incompetent in his care, management and treatment of patients R.S., O.C., A.S., and G.. The
7 circumstances are as follows:

8 23. The facts and circumstances set forth in paragraphs 12A-N, and 18-21, are
9 incorporated herein.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct)

12 24. Respondent is subject to disciplinary action under section 3502.1, in
13 conjunction with California Code of Regulations, Title 16, section 1399.521, subdivision (e), in
14 that he performed medical tasks which exceeded the scope of practice of a physician's assistant,
15 and administered medication to patients R.S., O.C., A.S., and G.K., without the order of a
16 supervising physician, and which was not based on office protocol. The circumstances are as
17 follows:

18 25. The facts and circumstances set forth in paragraphs 12A-N and 18-21, are
19 incorporated herein.

20
21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein
23 alleged, and that following the hearing, the Physician Assistant Committee issue a decision:

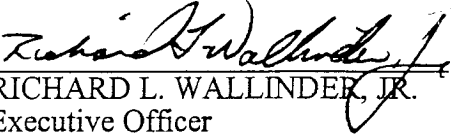
24 1. Revoking or suspending Physician Assistant License Number PA 11963,
25 issued to Leon G. Pham;

26 2. Ordering Leon G. Pham to pay the Physician Assistant Committee the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: August 1, 2002


RICHARD L. WALLINDER, JR.
Executive Officer
Physician Assistant Committee
Department of Consumer Affairs
State of California
Complainant

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2Accusation.wpt 10/19/01
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